



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/696,739

Filing Date: October 28, 2003

Applicant: Rex Miller, et al.

Group Art Unit: 3677

Examiner: Flemming Saether

Title: FASTENER FOR SPANNING A LARGE GAP

Attorney Docket: 0275M-000650

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

DECLARATION UNDER 37 CFR § 1.132

I, James Berry, hereby declare the following to be true and accurate, to the best of my personal knowledge:

1. I am a Director for North American Sales for the fastener for spanning a large gap for Emhart in the United States.
2. Emhart sold approximately \$1.7 million dollars of fasteners for spanning a large gap to a North American vehicle original equipment manufacturer for the model year 2006.
3. The model year 2006 represented 6% of the large gap fasteners.

4. Even considering the significant pricing pressures in the present automotive market, Emhart expects to increase its market share for fasteners for spanning a large gap to the original equipment manufacturer to 16% of the market for the model year 2007.

5. Each of the Emhart fasteners for spanning a large gap sold to the original equipment manufacturer is sold at a price premium of over 40% over competitive products.

6. Each of the Emhart fasteners for spanning a large gap sold to the original equipment manufacturer employs the limitation listed in the claims pending in the above identified U.S. patent application.

7. It is my understanding upon information and belief, and from conversations I personally had with the original equipment manufacturer employees, that the original equipment manufacturer purchased these Emhart fasteners to spanning a large gap primarily based on their technical merit, for example, due to essentially the mechanical features noted in the attached claims (which lead to quality, durability and other functional advantages), rather than due to sales, marketing, advertising or price considerations.

8. It is my opinion upon information and belief, that Emhart has received significant commercial success for its fastener, especially considering its fairly recent introduction by Emhart to customers since approximately 2003. It is also my opinion upon information and belief that Emhart is one of at least five significant suppliers of caged fasteners for spanning a large gap in the United States to the automotive industry. For example, it is my understanding that the

original equipment manufacturer found the durability and reliability of the caged fastener for spanning a large gap of Emhart to be technically superior and more desirable than competitive cages fasteners. It is further my understanding that original equipment manufacturer found the reliability of the Emhart caged fastener for spanning a large gap to be technically desirable and superior to competitive caged fasteners.

9. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief or upon my understanding are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 2/11/08



James Berry